

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2003-0758, State of New Hampshire v. Michael Bell, the court on May 19, 2005, issued the following order:

Following a jury trial, the defendant was convicted of criminal trespass, two counts of criminal threatening and criminal mischief. On appeal, he contests the sufficiency of the evidence on the criminal threatening convictions. We affirm.

Citing language in State v. Fuller, 147 N.H. 210, 214 (2001), the defendant argues that because his threats were conditional, there was insufficient evidence to convict him under RSA 631:4, I (a). RSA 631:4, I (a) provides that a person is guilty of criminal threatening when “by physical conduct, the person purposely places or attempts to place another in fear of imminent bodily injury or physical contact.” RSA 631:4, I (a) (Supp. 2004).

Here, there was evidence of unconditional threats. Specifically, the evidence included that, when the defendant was advised he was under arrest, he became agitated, grabbed scissors, held them open and waved them at the officers, telling them that he was going to cut them. When the officers left the house, the defendant came after them with a paring knife and the scissors.

The defendant argues that he only threatened harm if the officers took him into custody and therefore because his threats were conditional, there was insufficient evidence of criminal threatening. The jury was instructed that a conditional threat did not constitute the crime of criminal threatening. We need not determine whether this instruction was an accurate statement of the law. Based upon the record before us, we conclude that the jury could have found beyond a reasonable doubt that the defendant’s threats were not conditional and that the evidence supported his two convictions for criminal threatening. See State v. Wiggin, 151 N.H. 305, 308 (2004); see also State v. Laudarowicz, 142 N.H.1, 5 (1997) (to affirm conviction on appeal circumstantial evidence must exclude all rational conclusions except guilt).

Affirmed.

NADEAU, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**